

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

* * * * *

Carol Peterson,

Plaintiff,

vs.

REPORT AND RECOMMENDATION

National Credit Adjusters,

Defendant.

Civ. No. 10-2358 (MJD/RLE)

* * * * *

This matter came before the undersigned United States Magistrate Judge upon routine supervision of the cases filed in this Division, and upon an assignment made in accordance with Title 28 U.S.C. §636(b)(1)(B).

This action was commenced on June 14, 2010, by the filing of a Complaint with the Clerk of Court. See, Docket No. 1. An Affidavit of Service was filed on July 6, 2010, which disclosed that the Defendant was served with the Summons and Complaint on July 1, 2010. See, Docket No. 2.

On July 29, 2010, it having appeared that twenty-one (21) days had passed since the Defendant was served, and that it had not filed an Answer, or otherwise

responded to the Complaint, as required by Rule 12, Federal Rules of Civil Procedure, this Court issued an Order, which directed the Plaintiff, as follows:

1. Notify the Defendant that it is required to serve and file an Answer or some other responsive pleading, or to move for an extension of time to do so, and that an application for entry of default is required within ten (10) days of such notification if no response is filed;
2. File an application for entry of default unless the required pleadings are filed within ten (10) days of the referenced notification; or
3. Advise the Court in writing of any good cause to the contrary.

Docket No. 3, at pp. 2-3 of 3.

We further advised that, “[u]nless the Plaintiff complies with this Order within twenty (20) days of [the date of our Order], we may recommend that this case be dismissed for lack of prosecution.” Id. p. 3 of 3. To date, the Defendant has not filed an Answer, and the Plaintiff has not filed for the entry of a default against the Defendant, or otherwise advised the Court of any good cause for that failure.

Accordingly, the Plaintiff has failed to abide by the terms of our Order of July 29, 2010. Since we have previously warned the Plaintiff of the potential consequences for her failure to abide by the Orders of this Court, we recommend that this action be

dismissed, without prejudice, for failure to comply with this Court's Order of July 29, 2010, and for lack of prosecution.

NOW THEREFORE, It is --

RECOMMENDED:

That this action be dismissed, without prejudice, for failure to comply with this Court's Order of July 29, 2010, and for lack of prosecution.

BY THE COURT:

Dated: August 27, 2010

s/Raymond L. Erickson
Raymond L. Erickson
CHIEF U.S. MAGISTRATE JUDGE

NOTICE

Pursuant to Rule 6(a), Federal Rules of Civil Procedure, D. Minn. LR1.1(f), and D. Minn. LR72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties **by no later than September 10, 2010**, a writing which specifically identifies those portions of the Report to which objections are made and the bases of those objections. Failure to

comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals.

If the consideration of the objections requires a review of a transcript of a Hearing, then the party making the objections shall timely order and file a complete transcript of that Hearing **by no later than September 10, 2010**, unless all interested parties stipulate that the District Court is not required by Title 28 U.S.C. §636 to review the transcript in order to resolve all of the objections made.